

## Centers for Medicare & Medicaid Services, HHS

## § 432.2

agency access, records from agencies responsible for motor vehicles, vital statistics, and State or local income and property taxes (where these taxes exist).

(D) The State has achieved substantial performance in the use of the following accountability mechanisms to ensure that agency staff adhere to error reduction initiatives. The following are minimum requirements:

(1) Accuracy of eligibility and liability determinations and timely processing of case actions are used as quantitative measures of employee performance and reflected in performance standards and appraisal forms:

(2) Selective second-party case reviews are conducted. The second-party review results are periodically reported to higher level management, as well as supervisors and workers and are used in performance standards and appraisal forms; and

(3) Regular operational reviews of local offices are performed by the State to evaluate the offices' effectiveness in meeting error reduction goals with periodic monitoring to ensure that review recommendations have been implemented.

(vi) A State that meets the performance standards specified in paragraphs (e)(2)(v) (A) through (D) of this section will be considered for a full or partial waiver of its disallowance amount. The State must submit only specific documentation that verifies that the necessary actions were accomplished. For example, a State could submit worker performance standards reflecting timeliness and case accuracy as quantitative measures of performance.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the national standard despite a good faith effort.

(f) *Disallowance subject to appeal.* (1) If a State does not agree with a disallowance imposed under paragraph (e) of this section, it may appeal to the Departmental Appeals Board within 30 days from the date of the final disallowance notice from CMS. The regular procedures for an appeal of a disallowance will apply, including review

by the Appeals Board under 45 CFR part 16.

(2) This appeal provision, as it applies to MEQC disallowances, is not applicable to the Administrator's decision on a State's waiver request provided for under paragraph (e) of this section.

[55 FR 22171, May 31, 1990, as amended at 61 FR 38398, July 24, 1996; 66 FR 2666, Jan. 11, 2001]

### PART 432—STATE PERSONNEL ADMINISTRATION

#### Subpart A—General Provisions

Sec.

432.1 Basis and purpose.

432.2 Definitions.

432.10 Standards of personnel administration.

#### Subpart B—Training Programs; Subprofessional and Volunteer Programs

432.30 Training programs: General requirements.

432.31 Training and use of subprofessional staff.

432.32 Training and use of volunteers.

#### Subpart C—Staffing and Training Expenditures

432.45 Applicability of provisions in subpart.

432.50 FFP: Staffing and training costs.

432.55 Reporting training and administrative costs.

AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

SOURCE: 43 FR 45199, Sept. 29, 1978, unless otherwise noted.

#### Subpart A—General Provisions

##### § 432.1 Basis and purpose.

This part prescribes regulations to implement section 1902(a)(4) of the Act, which relates to a merit system of State personnel administration and training and use of subprofessional staff and volunteers in State Medicaid programs, and section 1903(a), rates of FFP for Medicaid staffing and training costs. It also prescribes regulations, based on the general administrative authority in section 1902(a)(4), for State training programs for all staff.

##### § 432.2 Definitions.

As used in this part—

*Community service aides* means sub-professional staff, employed in a variety of positions, whose duties are an integral part of the agency's responsibility for planning, administration, and for delivery of health services.

*Directly supporting staff* means secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that directly support the responsibilities of skilled professional medical personnel, who are directly supervised by the skilled professional medical personnel, and who are in an employer-employee relationship with the Medicaid agency.

*Fringe benefits* means the employer's share of premiums for workmen's compensation, employees' retirement, unemployment compensation, health insurance, and similar expenses.

*Full-time training* means training that requires employees to be relieved of all responsibility for performance of current agency work to participate in a training program.

*Part-time training* means training that allows employees to continue full-time in their agency jobs or requires only partial reduction of work activities to participate in the training activity.

*Skilled professional medical personnel* means physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

*Staff of other public agencies* means skilled professional medical personnel and directly supporting staff who are employed in State or local agencies other than the Medicaid agency who perform duties that directly relate to the administration of the Medicaid program.

*Subprofessional staff* means persons performing tasks that demand little or no formal education; a high school diploma; or less than 4 years of college.

*Supporting staff* means secretarial, stenographic, clerical, and other sub-professional staff whose activities are

directly necessary to the carrying out of the functions which are the responsibility of skilled professional medical personnel, as defined in this section.

*Training program* means a program of educational activities based on the agency's training needs and aimed at insuring that agency staff acquire the knowledge and skills necessary to perform their jobs.

*Volunteer* means a person who contributes personal service to the community through the agency's program but is not a replacement or substitute for paid staff.

[43 FR 45199, Sept. 29, 1978, as amended at 50 FR 46663, Nov. 12, 1985; 50 FR 49389, Dec. 2, 1985]

#### § 432.10 Standards of personnel administration.

(a) *State plan requirement.* A State plan must provide that the requirements of paragraphs (c) through (h) of this section are met.

(b) *Terms.* In this section, "standards" refer to those specified in paragraph (c) of this section.

(c) *Methods of personnel administration.* Methods of personnel administration must be established and maintained, in the Medicaid agency and in local agencies administering the program, in conformity with:

(1) [Reserved]

(2) 5 CFR part 900, subpart F, Administration of the Standards for Merit System of Personnel Administration.

(d) *Compliance of local jurisdictions.* The Medicaid agency must have in effect methods to assure compliance with the standards by local jurisdictions included in the plan.

(e) *Review and adequacy of State laws, regulations, and policies.* The agency must—

(1) Assure that the U.S. Civil Service Commission has determined the adequacy of current State laws, regulations, and policy statements that effect methods of personnel administration in conformity with the standards, and

(2) Submit any changes in them to the Commission for review.

(f) *Statements of acceptance by local agencies.* If the Medicaid agency changes from a State-administered to a State-supervised, locally administered program, it must obtain statements of

acceptance of the standards from the local agencies.

(g) *Affirmative action plan.* The Medicaid agency must have in effect an affirmative action plan for equal employment opportunity, that includes specific action steps and timetables to assure that opportunity, and meets all other requirements of 45 CFR 70.4.<sup>1</sup>

(h) *Submittal of requested materials.* The Medicaid agency must submit to HHS, upon request, copies of the affirmative action plan and of the State and local materials that assure compliance with the standards.

[43 FR 45199, Sept. 29, 1978, as amended at 45 FR 24883, Apr. 11, 1980]

## Subpart B—Training Programs; Subprofessional and Volunteer Programs

### § 432.30 Training programs: General requirements.

(a) A State plan must provide for a program of training for Medicaid agency personnel. (See also §§ 432.31 and 432.32 for training programs for subprofessional staff and for volunteers.)

(b) The program must—

(1) Include initial inservice training for newly appointed staff, and continuing training opportunities to improve the operation of the program;

(2) Be related to job duties performed or to be performed by the persons trained; and

(3) Be consistent with the program objectives of the agency.

### § 432.31 Training and use of subprofessional staff.

(a) *State plan requirement.* A State plan must provide for the training and effective use of subprofessional staff as community service aides, in accordance with the requirements of this section.

(b) *Recruitment and selection.* The Medicaid agency must have methods of recruitment and selection that afford opportunity for full-time or part-time

employment of persons of low income, including:

(1) Young, middle-aged, and older persons;

(2) Physically and mentally disabled; and

(3) Recipients.

(c) *Merit system.* Subprofessional positions must be subject to merit system requirements except where special exemption is approved on the basis of a State alternative plan for employment of disadvantaged persons.

(d) *Staffing plan.* The agency staffing plan must include the kinds of jobs that subprofessional staff can perform.

(e) *Career service.* The agency must have a career service program that allows persons:

(1) To enter employment at the subprofessional level; and

(2) To progress to positions of increasing responsibility and reward:

(i) In accordance with their abilities; and

(ii) Through work experience and pre-service and in-service training.

(f) *Training, supervision and supportive services.* The agency must have an organized training program, supervision, and supportive services for subprofessional staff.

(g) *Progressive expansion.* The agency must provide for annual increase in the number of subprofessional staff until:

(1) An appropriate ratio of subprofessional and professional staff has been achieved; and

(2) There is maximum use of subprofessional staff as community aides in the operation of the program.

### § 432.32 Training and use of volunteers.

(a) *State plan requirement.* A State plan must provide for the training and use of non-paid or partially paid volunteers in accordance with the requirements of this section.

(b) *Functions of volunteers.* The Medicaid agency must make use of volunteers in:

(1) Providing services to applicants and recipients; and

(2) Assisting any advisory committees established by the agency.

As used in this paragraph, “partially paid volunteers” means volunteers who

<sup>1</sup>Editorial Note: The regulations formerly contained in 45 CFR 70.4 were revised and reissued by the Office of Personnel Management at 5 CFR Part 900, (Subpart F).

## § 432.45

## 42 CFR Ch. IV (10–1–02 Edition)

are reimbursed only for actual expenses incurred in giving service, without regard to the value of the service or the time required to provide it.

(c) *Staffing.* The agency must designate a position whose incumbent is responsible for:

(1) The development, organization, and administration of the volunteer program; and

(2) Coordination of the program with related functions.

(d) *Recruitment, selection, training, and supervision.* The agency must have:

(1) Methods of recruitment and selection that assure participation of volunteers of all income levels, in planning capacities and service provision; and

(2) A program of organized training and supervision of volunteers.

(e) *Reimbursement of expenses.* The agency must—

(1) Reimburse volunteers for actual expenses incurred in providing services; and

(2) Assure that no volunteer is deprived of the opportunity to serve because of the expenses involved.

(f) *Progressive expansion.* The agency must provide for annual increase in the number of volunteers used until the volunteer program is adequate for the achievement of the agency's service goals.

### Subpart C—Staffing and Training Expenditures

#### § 432.45 Applicability of provisions in subpart.

The rates of FFP specified in this subpart C do not apply to State personnel who conduct survey activities and certify facilities for participation in Medicaid, as provided for under section 1902(a)(33)(B) of the Act.

[50 FR 46663, Nov. 12, 1985; 50 FR 49389, Dec. 2, 1985]

#### § 432.50 FFP: Staffing and training costs.

(a) *Availability of FFP.* FFP is available in expenditures for salary or other compensation, fringe benefits, travel, per diem, and training, at rates determined on the basis of the individual's position, as specified in paragraph (b) of this section.

(b) *Rates of FFP.* (1) For skilled professional medical personnel and directly supporting staff of the Medicaid agency or of other public agencies (as defined in § 432.2), the rate is 75 percent.

(2) For personnel engaged directly in the operation of mechanized claims processing and information retrieval systems, the rate is 75 percent.

(3) For personnel engaged in the design, development, or installation of mechanized claims processing and information retrieval systems, the rate is 50 percent for training and 90 percent for all other costs specified in paragraph (a) of this section.

(4) [Reserved]

(5) For personnel administering family planning services and supplies, the rate is 90 percent.

(6) For all other staff of the Medicaid agency or other public agencies providing services to the Medicaid agency, and for training and other expenses of volunteers, the rate is 50 percent.

(c) *Application of rates.* (1) FFP is prorated for staff time that is split among functions reimbursed at different rates.

(2) Rates of FFP in excess of 50 percent apply only to those portions of the individual's working time that are spent carrying out duties in the specified areas for which the higher rate is authorized.

(3) The allocation of personnel and staff costs must be based on either the actual percentages of time spent carrying out duties in the specified areas, or another methodology approved by CMS.

(d) *Other limitations for FFP rate for skilled professional medical personnel and directly supporting staff—*(1) *Medicaid agency personnel and staff.* The rate of 75 percent FFP is available for skilled professional medical personnel and directly supporting staff of the Medicaid agency if the following criteria, as applicable, are met:

(i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;

(ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. "Professional education and training"

means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in a field of medical care.

(iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills.

(iv) A State-documented employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and directly supporting staff; and

(v) The directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

(2) *Staff of other public agencies.* The rate of 75 percent FFP is available for staff of other public agencies if the requirements specified in paragraph (d)(1) of this section are met and the public agency has a written agreement with the Medicaid agency to verify that these requirements are met.

(e) *Limitations on FFP rates for staff in mechanized claims processing and information retrieval systems.* The special matching rates for persons working on mechanized claims processing and information retrieval systems (paragraphs (b)(2) and (3) of this section) are applicable only if the design, development and installation, or the operation, have been approved by the Ad-

ministrator in accordance with part 433, subchapter C, of this chapter.

[43 FR 45199, Sept. 29, 1978, as amended at 46 FR 48566, Oct. 1, 1981; 50 FR 46663, Nov. 12, 1985]

#### § 432.55 Reporting training and administrative costs.

(a) *Scope.* This section identifies activities and costs to be reported as training or administrative costs on quarterly estimate and expenditure reports to CMS.

(b) *Activities and costs to be reported on training expenditures.* (1) For fulltime training (with no assigned agency duties): Salaries, fringe benefits, dependency allowances, travel, tuition, books, and educational supplies.

(2) For part-time training: Travel, per diem, tuition, books and educational supplies.

(3) For State and local Medicaid agency staff development personnel (including supporting staff) assigned fulltime training functions: Salaries, fringe benefits, travel, and per diem. Costs for staff spending less than full time on training for the Medicaid program must be allocated between training and administration in accordance with § 433.34 of this subchapter.

(4) For experts engaged to develop or conduct special programs: Salary, fringe benefits, travel, and per diem.

(5) For agency training activities directly related to the program: Use of space, postage, teaching supplies, and purchase or development of teaching materials and equipment, for example, books and audiovisual aids.

(6) For field instruction in Medicaid: Instructors' salaries and fringe benefits, rental of space, travel, clerical assistance, teaching materials and equipment such as books and audiovisual aids.

(c) *Activities and costs not to be reported as training expenditures.* The following activities are to be reported as administrative costs:

(1) Salaries of supervisors (day-to-day supervision of staff is not a training activity); and

(2) Cost of employing students on a temporary basis, for instance, during summer vacation.

[43 FR 45199, Sept. 29, 1978, as amended at 44 FR 17935, Mar. 23, 1979]